COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF CORRECTION

103 CMR 505

USE OF FORCE

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505.01 Purpose

These regulations set Department policy governing the use of force by employees of the Department of Correction.

505.02 Statutory Authorization

103 CMR 505 is issued pursuant to M.G.L., c. 124, §1 (b),(c), and (q), and M.G.L. c. 127, § 33.

505.03 Cancellation

These regulations cancel all previous Department policy statements, bulletins, directives, orders, notices, or regulations on the use of force, to the extent they are inconsistent with these regulations.

505.04 Applicability

103 CMR 505 is applicable to all employees of the Department.

505.05 Access to Regulations

Copies of 103 CMR 505 shall be posted and maintained in prominent places accessible to all employees and inmates. A copy shall be given to each employee at the time of his initial orientation. A copy shall be kept on file in the institutions central policy file, inmate law library, and in the Central Office policy file.

505.06 Definitions

Ammunition - The projectile(s), along with the casing and primer that can be fired from a firearm.

Business Hours - Monday through Friday, 9:00 a.m. to 5:00 p.m. excluding holidays.

<u>Chemical Agents</u> - Any device or instrument which contains or emits a liquid, powder, or any other substance designed to incapacitate. This includes, but is not limited to, tear gas cartridges and self-contained sprays.

<u>Commissioner</u> - The Commissioner of the Department of Correction.

<u>Department</u> - The Department of Correction.

<u>Deputy Commissioner</u> - The Deputy Commissioner of the Department of Correction. In the absence of the Commissioner, the Deputy Commissioner shall act as the Commissioner.

<u>Department Duty Officer Station</u> - Designated site that assist the processing of information for Duty Officer System.

<u>Department Investigations/Apprehension Unit</u> - The unit of the Department of Correction that conducts investigations at the direction of the Commissioner, and is responsible

for the apprehension of escaped inmates.

<u>Director</u>, <u>Operations and Security</u> - The Department staff person responsible for the daily operations of the Operations and Security Division of the Department of Correction.

<u>Director, Psychological Services</u> - The staff person charged with the administration of the Psychological Services Division of the Department of Correction.

Emergency - Any situation where the failure of an individual to take immediate action would place himself or another at imminent risk of death or serious bodily injury.

Employee - An employee of the Department of Correction. Employee shall also refer to individuals paid for services performed within a correctional institution for or through a contracted service or agency.

Excessive Force - Force which exceeds reasonable force, or force which was reasonable at the time its use began but was used beyond the need for its application.

<u>Firearm</u> - A pistol, revolver, or other weapon of any description, loaded or unloaded, from which ammunition can be fired.

 $\underline{\text{Force}}$ - The use of physical power. The use of a weapon, a chemical agent or instrument of restraint to compel, restrain, or otherwise subdue a person.

Four-Point Restraint - Any combination of instruments of restraint such that four limbs of an inmate are restrained at any one time, in any manner to a fixed object.

<u>Institution Duty Officer</u> - The staff person assigned the duties as institution duty officer by the Superintendent. He may be the Superintendent's designee.

<u>Instruments of Restraint</u> - Equipment authorized for use during the transportation of inmates to prevent escape, or to prevent injury to self, others or property. Instruments of restraint shall include, but not be limited to: handcuffs, waist chains, leg restraints, towels or any other device or equipment authorized by the Commissioner.

 $\frac{K-9\ Team}{trainer}$ - A dog trained and certified by a certified trainer, accompanied by a handler trained and certified by a certified trainer, for use in K-9 patrol activities or the detection of drugs, explosives or other contraband.

Reasonable Force - The least amount of force necessary to carry out any of the actions listed in 103 CMR 505.07 (1), (a) through (j).

<u>Serious Bodily Injury</u> - Any injury which creates a substantial risk of death or any injury which is likely to cause serious permanent disfigurement, or the loss or extended impairment of any limb, organ or other part of the body.

Shift Commander - The staff member who is responsible for the security of the institution, the care and custody of all inmates housed in the institution, and the supervision of all security staff during a given tour of duty. Maybe responsible for institutional operations during the absence of higher ranking staff.

Special Unit Director - The administrative head of the
following units:

- The Department Investigations/Apprehension Unit;
- The Contract Residential Services Unit;
- The Department Staff Development Division;
- The Department Central Transportation Unit.

<u>Superintendent</u> - The chief administrative officer of a Department of Correction institution.

<u>Visitor (Inmate)</u> - Any person requesting entrance into a correctional institution's visiting room or other approved visiting area for the sole purpose of conducting a social visit with an inmate incarcerated within any state correctional institution.

<u>Visitor (Institutional)</u> - Any person requesting entrance into a correctional institution to conduct official business such as, but not limited to: contractors; vendors; repairmen; facility tours; media; volunteers; and, persons wishing to provide services to inmates or to examine or report on inmates conditions.

505.07 Use of Force

- (1) An employee may use reasonable force when it is necessary to:
 - (a) prevent the commission of a felony, including escape;
 - (b) prevent an act which could result in death or serious bodily injury to himself or another person;
 - (c) defend himself or another against a physical assault;
 - (d) prevent serious damage to property;
 - (e) prevent or control a riot or disturbance;
 - (f) move an inmate who has refused a proper order by an
 employee;
 - (g) apprehend an escaped inmate;
 - (h) conduct the search of an inmate who has refused a proper order by an employee to submit to said search;
 - (i) preserve the overall order and security of the institution;
 - (j) preserve the safety of any employee, inmate, or visitor.
- (2) Before the use of force upon an inmate, an employee when time permits, should issue a verbal warning to the inmate to stop or otherwise desist and obey the order of the employee.
- (3) After force has been used against an inmate, the inmate shall be examined by a medical staff member as soon as possible. Such examination shall be documented.

505.08 Prohibitions on the Use of Force

- (1) An employee shall not use or permit the use of excessive force.
- (2) An employee shall not use or permit the use of force as

punishment or discipline.

505.09 Requirements Governing the Use of Chemical Agents

- (1) Only those chemical agents, approved in writing by the Commissioner and authorized by the Superintendent are to be used.
- (2) Chemical agents may not be used in state institutions without the prior authorization of the Superintendent, or in his absence, his designee. All such authorizations shall be documented in writing after the incident and within the time limits of 103 CMR 505.13 (1).
- (3) Chemical agents shall not be used as punishment.
- (4) Chemical agents shall only be used by employees trained in their proper use.
- (5) Chemical agents shall only be used following the manufacturer's recommendations and in compliance with the training program plan as approved by the Commissioner.
- (6) Whenever chemical agents are used, all persons exposed shall be given medical attention as soon as possible. Such care shall be documented.
- (7) The use of chemical agents shall be considered a use of force. The reporting requirements of 103 CMR 505.13 shall be followed.

505.10 Requirements Governing the Use of Instruments of Restraint

- (1) Only instruments of restraint approved by the Commissioner and issued by the Department shall be used.

 Gags are not authorized as instruments of restraint and their use is a violation of these regulations.
- (2) Instruments of restraint shall not be used as punishment.
- (3) Instruments of restraint used to prevent escape during the transportation of inmates shall not be considered to be a use of force.
- (4) Instruments of restraint used during the routine movement of inmates from one point to another within a correctional institution shall not be considered a use of

force.

- (5) Except as described in 103 CMR 505.10 (3) and (4), instruments of restraint will only be used when all other reasonable methods of control have been considered and deemed inappropriate, and then only on the documented approval of the Superintendent or, in his absence, his designee. The shift commander may authorize the use of instruments of restraint for up to two hours. He shall be required to notify the Superintendent, or in his absence, his designee, by normally accepted means of communication as soon as possible to gain his documented approval for continuation of the use of instruments of restraint beyond two hours.
- (6) Instruments of restraint shall only be used by employees trained in their proper use. Such training shall be documented.
- (7) Instruments of restraint used for purposes other than as described in 103 CMR 505.10 (3) and (4), shall only be used until the restrained inmate has exhibited through his actions or statements that he will not resume the conduct which resulted in the decision to use instruments of restraint. In no event shall an inmate be restrained beyond an eight hour period without the documented approval of a member of the psychological staff. Such authorization must be renewed at the end of each eight hour period. The Superintendent shall notify the Deputy Commissioner by normally accepted means of communication as soon as possible if an inmate is to be restrained longer than eight hours.
- (8) All restrained inmates, except those restrained 103 CMR 505.10 (3) and (4), shall be examined by a member of the institution's medical staff at regular and frequent intervals. Except in unusual circumstances, intervals shall not be greater than two hours in duration. Any examination pursuant to this section shall be documented.
- (9) Any inmate restrained to prevent self-mutilation shall be examined by a member of the medical and a member of the psychological staff as soon as possible. The Director of Psychological Services shall be notified by normally accepted means of communication within two hours of placing the inmate in restraint, of the results of an examination conducted under the provisions of this section.

- (10) At no time shall an inmate under restraint be out of the visual observation of staff.
- (11) The application of instruments of restraint shall be such that they provide the least amount of physical restraint necessary for the situation. This may include the use of handcuffs, waist chain or leg restraints, separately or in combination.
- (12) At no time shall handcuffs or waist chains be linked together with leg restraints.
- (13) If four-point restraint is authorized by the Superintendent, or his designee, or the shift commander as allowed by 505.10 (5), the Deputy Commissioner shall be notified during business hours. In those instances where the use of four-point restraint has been ordered as medically necessary by a member of the medical or psychological staff, the Director Psychological Services shall be notified during business hours. The Department Duty Station shall be notified in either case during other than business hours. Such notifications shall be made within two hours of an inmate being placed in four-point restraint, be documented, and shall include but not be limited to:
 - (a) inmate's name and commitment number;
 - (b) reason for placing the inmate in four-point
 restraint;
 - (c) time placed in restraints;
 - (d) what other actions were taken or considered before
 placing the inmate in four-point restraint;
 - (e) if four-point restraint is being used in cases involving self-mutilation or attempted selfmutilation, the expected time of examination by psychological staff;
 - (f) expected time of release from four-point restraint.
- (14) The use of instruments of restraint except when used as described in 103 CMR 505.10 (3) & (4) is a use of force and the reporting requirements of 103 CMR 505.13 shall be adhered to.

505.11 Requirements Governing the Use of K-9 Teams

- (1) Only those K-9 teams certified by the Commissioner shall be used within any correctional institution.
- (2) K-9 teams may not be used in state correctional institutions without prior authorization of the Commissioner or his designee, unless an emergency exists requiring their immediate use. Authorization is not required for regular routine searches or patrol within or outside of an institution, during which, under normal circumstances there is limited contact with inmates and injuries would not normally result.
- (3) Anyone who is injured as a result of actions by a K-9 team shall be seen by medical staff as soon as possible. Such medical care shall be documented.
- (4) It shall be the responsibility of the K-9 handler to make a full report of all incidents involving the use of the K-9 team, except regular routine searches or patrol within or outside of an institution, during which, under normal circumstances there is limited contact with inmates and injuries would not normally result. If contact with inmates do occur or injuries result and the use of the K-9, the names of such person injured or having contact shall appear in the report, which shall be submitted to the Superintendent as soon as possible, but in any event before the end of his shift, unless otherwise authorized by the Superintendent.
- (5) The use of K-9 teams, except as stipulated in 103 CMR 505.11 (4) shall be considered a use of force. The reporting requirements of 103 CMR 505.13 shall be adhered to.

505.12 Requirements Governing the Use of Firearms

- (1) An employee may use a firearm only as a last resort when all other means have been attempted or it is reasonable to believe that they would be ineffective, and only in the following situations:
 - (a) To prevent an act which is likely to create an imminent risk of death or serious bodily injury to the employee or another person.
 - (b) To prevent an escape of an inmate whom the employeereasonably believes to be a convicted felon

and the use of force does not pose a risk of harm to innocent persons. Firearms shall not be used to prevent escapes from minimum or pre-release institutions. Nor shall firearms be used to prevent escapes of individuals recognized and known to be committed to the Bridgewater State Hospital, the Treatment Center at the Bridgewater Complex, the Addiction Center at Southeastern Correctional Center, except when necessary to prevent an act which is likely to create an imminent risk of death or serious bodily injury to the employee or another person.

- (c) To carry out the arrest of an escaped inmate on a charge of escape as defined by M.G.L. c. 268, s. 16, but only if:
 - (1) the employee holds a valid special state police commission pursuant to M.G.L. 127, s. 127, and;
 - (2) the employee reasonably believes that the use of firearms creates no substantial risk of injury to innocent persons; and
 - (3) the employee reasonably believes that:
 - (a) the inmate's escape involved the use or threatened use of force which is/was likely to create an imminent risk of death or serious bodily injury to the employee or another person, or;
 - (b) there is substantial risk that the escaped inmate will cause death or serious bodily injury if the apprehension is delayed.
- (2) Firearms shall not be used without the prior authorization of the Commissioner, or his designee; the Superintendent, or his designee; the Special Unit Director, or his designee; unless an emergency exists requiring the immediate use of firearms to prevent death or serious bodily injury.
- (3) There may be rare situations where an employee will have to use a firearms without prior authorization. Any such use of a firearm will be strictly reviewed to determine:
 - (a) It was not possible to get timely

authorization, and;

- (b) It was reasonable for the employee to believe that an emergency existed requiring the immediate use of a firearm to prevent death or serious bodily injury to himself or others
- (4) Anyone who is injured as a result of the discharge of a firearm shall receive immediate medical care. Such care shall be documented.

805.13 Reporting Requirements for the Use of Force

(1) After an employee uses force, the Superintendent, or his designee, or the Special Unit Director, or his designee shall be notified immediately. In addition, the employee as soon as possible, and in no event later than his tour of duty, unless otherwise authorized by the Superintendent or Special Unit Director, shall submit a written report to the Superintendent, or the Special Unit Director.

The report shall include:

- (a) An accounting of the events leading up to the use of force;
- (b) A precise description of the incident and the reasons for employing force;
- (c) A description of the type of force used, and how it as used;
- (d) A description of the injuries suffered, if any, and the treatment given, if known, along with attached photographs, if any;
- (e) A list of all participants and witnesses to the incident.
- (2) The Superintendent or Special Unit Director shall also require a written report containing matters listed in subsection (1) above, from any employee who witnessed the use of force.
- (3) A copy of the report described in 103 CMR 505.13 (1), and a completed form 505-1 shall be submitted to the Director for Operations and Security, by the

Superintendent or Special Unit Director in a timely manner. The Director for Operations and Security shall review the reports. The Director for Operations and Security may request additional information or may recommend to the Commissioner that an investigation be conducted by the institution or Department Investigations Unit.

(4) Whenever the death of an inmate occurs as a result of a use of force, the Superintendent or Special Unit Director shall immediately notify the Commissioner through the fastest means, and the District Attorney's Office responsible for the institution or location where the death occurred.

505.14 Medical Treatment

- (a) Any person who is injured as a result of a use of force shall be given medical attention as soon as possible. Such care or treatment shall be documented.
- (b) Any inmate refusals of medical examinations or treatment shall be made to and documented by medical staff.

505.15 Sanctions for Violation of These Regulations

Any employee who violates or permits the violation of these regulations or who fails to report any violation or suspected violation of these regulations shall be subject to disciplinary action up to and including termination.

505.16 Training in the Use of Force

All employees charged with the care and custody of inmates shall be trained in approved methods of using physical force, instruments of restraint, chemical agents and firearms to control inmates where necessary. Such training shall be documented in the employee's permanent training file.

505.17 Responsible Staff

The Director, Operations and Security Division shall be responsible for implementing this policy throughout the Department. Each Superintendent and Special Unit Director shall be responsible for implementing and

monitoring these regulations within his institution or unit, and for the development of necessary and appropriate procedures as required which shall be reviewed and signed-off by the reviewing authority.

505.18 Review Date

These regulations shall be reviewed annually from the effective date by the Commissioner or his designee. The party or parties conducting the review shall submit a memorandum indicating that the review has been completed. A copy of this memorandum shall be filed in the Central Policy File of the Department of Correction. Recommendations for revisions, additions, or deletions shall be included.

505.19 Severability Clause

If any article, section, subsection, sentence, clause or phrase of these regulations is for any reason held to be unconstitutional, contrary to statute, in excess of the authority of the Commissioner, or otherwise inoperative, such decision shall not affect the validity of any other article, section, subsection, sentence, clause or phrase of these regulations.

REGULATORY AUTHORITY

103 CMR 505.00 M.G.L. c. 124, ss. 1(b), (c), and (q); c. 127, s. 33.

Form 505 - 1 February 2000

DEPARTMENT OF CORRECTION USE OF FORCE REPORTING FORM

For Official Use Only

Date Of Incident:

Date of Report:

Institution/Unit:				
Location of Incident:				
Inmate:	ID:			
STATUS: o General Populat o Medical o Isolation	ion o Segregation/Detention o Mental Health o Other Specify			
Category of Behavior Which Led to D				
o Assaultive o Self Destructiv o Disoriented o Destroying Prop				
TYPE OF FORCE USED				
Briefly describe the type of	forced used:			
Use of force was authorized b	y:			
Name/Title:	Date:			
Was use of force o Planned o Spo If planned, was incident videotaped				
If answer is no, explain:				
Was the inmate verbally warned to s an employee? o Yes o No.	top or otherwise stop and obey the order of			
If not, explain List all witnesses to use of force:				
NAME	TITLE			

If more space needed, attach separate sheet of	paper		
CHEMICAL AGENTS			
Were chemical agents used? o Yes o No If used, identify type:			
Use was authorized by :			
Name/Title:	Date:		
If not by the superintendent, explain:			
Medical contraindications checked by:			
Name/Title:	Time:		
Was inmate informed that the use of chemical ag considered? o Yes o No	gents authorized and being		
By Who? name/title	date		
If inmate not informed, explain:			
Date and time chemical agent was used			
List employees who used chemical agents, and da	ate of last training:		
NAME/TITLE	TRAINED		
If more space needed, attach separate sheet of paper.			
INSTRUMENTS OF RESTRAINT			
Were restraints used? o Yes o No Use of restraints was authorized by:			

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Name/Title:

Date:

Describe restraints used (i.e., waist chains, leg irons, or any combinations): What other methods of control were considered before the application of restraints, (i.e., hands-on escort, verbal persuasion, etc.): List the names of employees who applied or assisted in the application of restraints, and the date they were last trained: NAME/TITLE	Was the inmate informed that restraint o Yes o No If no, explain:	equipmen	t was going to be applied?
What other methods of control were considered before the application of restraints, (i.e., hands-on escort, verbal persuasion, etc.): List the names of employees who applied or assisted in the application of restraints, and the date they were last trained: NAME/TITLE TRAINED If more space needed, attach separate sheet of paper. Date/time restraints were applied: Date/time restraints were removed: Total time in hours: If restraints were applied for longer than two hours, authorization must be obtained by the superintendent after the first two hours and every two hours thereafter up to eight hours. Superintendent notified by:			
List the names of employees who applied or assisted in the application of restraints, and the date they were last trained: NAME/TITLE TRAINED	Describe restraints used (i.e., waist	chains, l	eg irons, or any combinations):
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eight hours. Superintendent notified by:	longer than two hours, authorization		
Name/Title Time	superintendent after the first two hou		t 1 t1
			ery two nours thereafter up to
	eight hours. Superintendent notified	by:	ery two nours thereafter up to
·	eight hours. Superintendent notified	by:	ery two nours thereafter up to
	eight hours. Superintendent notified	by:	ery two nours thereafter up to

If restrained beyond two hours was the inmate examined by medical staff after the first two hours and at least every two hours thereafter. Does documentation exist for each medical check? o Yes o No

If no, explain:					
If restraints were applied for was notified by:	longer than	eight	hours, der	outy comm	issioner
Name/Title:		Date	(Business	Hours On	ly):
If restraints were applied for renewed each eight hours:	longer than	eight	hours, aut	chorizati	on must be
Name	Title		Tir	ne	
Psychological staff person only	7				
Were restraints applied to prevo Yes o No.		tilatic	n?		
If yes, institution/on-call psy	chological s	service	s staff no	otified b	y:
Name/Title: Date:					
If yes, Director of Psychological Services, Department of Correction, notified by:					
Name/Title: Date:					
FOUR-POINT RESTRAINTS					
Were four-point restraints used? o Yes o No					
Medical contraindications checked by:					
Name/Title:				Time:	
Approval obtained by the superintendent, notified by:					
				1	

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Time notified:

Name/Title:

Initial notification to deputy commissioner: The appropriate ADC was informed to notify the deputy commissioner, notified by: Name/Title: Time notified: If four-point restraints were applied longer than two hours, authorization must be obtained by the superintendent after the first two hours and every two hours thereafter up to eight hours. Superintendent notified by: Name/Title Time If four-point restraints were applied for longer than eight hours, the appropriate ADC was informed to notify the deputy commissioner, notified by: Name/Title: Date (Business Hours Only): If medically directed, the Director of Psychological Services, Department of Correction, notified by: Name/Title: Date: USE OF RESTRAINT CHAIR Was the restraint chair used? o Yes o No Were four-point restraints utilized prior to using the chair? o Yes o No If no, explain: Medical contraindications checked by: Name/Title: Time: Approval obtained by the superintendent, notified by: Time notified: Name/Title:

Initial notification to deputy commissioner: The appropriate ADC was informed to notify the deputy commissioner, notified by:

Name/Title: Time notified:

If the chair is utilized longer than t by the superintendent after the first up to eight hours.				
Superintendent notified by:				
Name/Title	Time			
If four-point restraints were applied appropriate ADC was informed to notify				
Name/Title:	Date	e (Business I	Hours Only):	
USE OF K-9'S				
Were K-9 units introduced into the ins	titution?	o Yes o No		
If yes, the Commissioner or his design	ee notifi	ed by:	,	
Name/Title: Date:				
Authorization for use of K-9's given by:				
Name/Title:			Date:	
List name/title of K-9 handler and dat	e of last	certificati	on:	
NAME/TITLE			CERTIFIED	
If additional space needed, attached a	separate	sheet.		
USE OF FIREARMS				
Were firearms used? o Yes o No	_			
Authorization given by Superintendent	at	Date/time		
If not Superintendent, explain:		Date/ criiic		

List name/title and date of last qualification (for type of weapon used) for persons using firearms:

NAME/TITLE	QUALIFIED

If additional space needed, attached separate sheet.

MEDTCAT.	TPFA	TMFNT

Was anyone injured as a result of the use of force? o Yes o No

List all persons injured and a description of injuries if known:

NAME/TITLE	INJURIES	REFUSED
		o YES o NO

If additional space needed, attach separate sheet.

Refusal	made	to:

Must be a member of HSU staff

Institution medical staff notified by:

Name/Title:	Date:	

Name of medical staff who received notice:

Time persons examined by medical staff:

Total time between notice and examination:

NOTE: ATTACH TO THIS FORM, REPORTS OF ALL PERSONS INVOLVED OR WITNESS TO THE INCIDENT, ANY MEDICAL REPORTS ON STAFF OR INMATES, NARRATIVES OF THE INCIDENT, COPIES OF APPROPRIATE LOG ENTRIES, AS WELL AS ANY OTHER PERTINENT DOCUMENTATION SURROUNDING THE INCIDENT AND EVENTS THAT LEAD UP TO THE INCIDENT.

Rep	ort	P	repared	by:
	· '	-	-	

Name/Title Date

Report Reviewed by:

Superintendent/Director Date